

**Memorandum of common provisions**  
**Restrictive covenants in a plan**  
**Section 91A Transfer of Land Act 1958**

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This memorandum contains provisions which are intended for inclusion in plans under the Subdivision Act 1988 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the plan:

**Burdened land:** As set out in the plan.

**Benefited land:** As set out in the plan.

**Covenants:**

**Definitions**

If not defined above, the words below shall have the meaning attributed to them in the document identified.

In the *Building Act 1993*:

- building
- building permit

In Parts 1 and 5 of the *Building Regulations 2018*:

- clear to the sky
- height
- north (true north)
- private open space
- recreational private open space
- raised open space
- secluded private open space

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1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in plans.

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**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

# Memorandum of common provisions

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- setback
- single dwelling
- site coverage
- allotment

In the *Hume Planning Scheme*:

- dwelling (Clause 74)
- frontage (Clause 72)
- habitable room (Clause 72)
- storey (Clause 72)

In the *Building Code of Australia, Volume 2*

- window

### **Additional definitions:-**

#### **Approved building envelope**

The building envelope shown for a particular allotment in the building envelope plan and has the same meaning as in Regulation 71 of the Regulations.

#### **Building envelope**

An area within each allotment (defined by the particular allotment setbacks) where development of a dwelling, shed, garage or carport is allowed subject to the particular provisions of this document, the Permit and the Scheme.

#### **Building envelope plan**

The plan which is attached to this MCP and which shows the approved building envelopes, certain setbacks and other related matters for the allotments within the plan of subdivision.

#### **Corner allotment**

An allotment with a corner where each boundary connects to a street (excluding a laneway) or public open space.

#### **Design Guidelines**

The 'True North Design Guidelines' prepared by Satterley, as amended from time to time.

#### **Edge allotments**

Allotments that are part of the same certified plan of subdivision but share one or more common boundaries with or otherwise adjoin an allotment that is not part of the same certified plan of subdivision.

#### **Finished Surface Level**

The ground level after engineering works associated with the subdivision are complete.

#### **MCP**

This Memorandum of Common Provisions.

#### **On the boundary**

Setback of up to 200 millimetres from the allotment / property boundary is deemed to be on the boundary.

#### **Plan of Subdivision**

The Plan of Subdivision referred to on page 1 of this MCP.

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### **Regulations**

The Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act which relate to the siting of a building.

### **Satterley**

Satterley Property Group.

### **Scheme**

The Hume Planning Scheme.

### **Side boundary**

A boundary of an allotment that runs between and connects the street frontage of the allotment to the rear boundary of the allotment.

### **Street**

For the purposes of determining street setbacks, street means any road other than a footway or carriageway easement.

### **True North Design Review Committee (True North-DRC)**

The committee appointed by Satterley responsible for assessing and approving designs to be in accordance with this MCP.

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### Covenants:

#### 1 Preliminary

Dwelling Plans (buildings and works) including plans of any proposed demolition of all or part of a building, for each must be endorsed by the True North Design Review Committee (True North-DRC) as complying with this MCP and being consistent with the Design Guidelines before applying for a building permit. This includes a requirement to obtain True North-DRC endorsement of any proposed changes to the façade of an existing building where such changes will be visible from streets or other public areas.

Where it is known that an additional planning permit or other approval is required for the proposal, the True North-DRC will only consider endorsing the plans after these permits or approvals have been obtained from the relevant authority.

Endorsement by the True North-DRC does not warrant, imply or in any way suggest that the endorsed development plans comply with the *Hume Planning Scheme* (the Scheme) or the Building Regulations 2018 (the Regulations) in force at the endorsement. The owner is advised to submit the endorsed plans to the City of Hume and/or a building surveyor for the issue of the necessary permit(s).

The matters addressed in this MCP are those that vary from the provisions in the Regulations and Scheme. All provisions not addressed in this MCP are as required in the Regulations and Scheme.

This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

#### 2 Provisions

Plan of Subdivision PS 918451X includes a notice of restriction enabling approved building envelopes in accordance with Regulation 5 in Part 1 of the Regulations. The provisions of this MCP are incorporated into the restrictions created by the Plan of Subdivision.

Any building on allotments 2401 to 2436 within Plan of Subdivision PS 918451X must be contained within the building envelope and comply with written notes contained within this MCP. The building envelopes are part of Planning Permit P20720 (the Permit), issued by the City of Hume on 31 May 2018, being created as a condition of that Permit.

Any building to be constructed on allotments to which this MCP applies and for which the construction would require a building permit must be sited within the approved building envelope subject to any specific encroachments allowed outside the approved building envelope pursuant to this MCP.

A building envelope may be amended with the written consent of the City of Hume.

#### 3 Text of restrictions

The matters which are restricted by the approved building envelopes provide for siting and design parameters different from those contained in Part 5 in the Regulations and Clause 54 in the Scheme and are as follows.

##### 3.1 Minimum street setbacks (Regulation 74 and Clause 54.03-1)

A building must be set back from a street alignment in accordance with Regulation 74 (Minimum street setbacks) in Part 5 of the Regulations and Clause 54.03-1 in the Scheme, except as specified below.

A building on an allotment must be set back from a street boundary not less than the distance specified in respect of that boundary on the following relevant building envelope plan.

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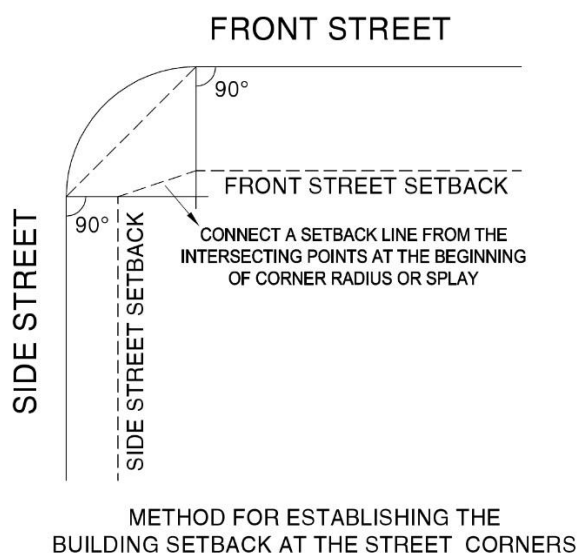
With the approval and endorsement of the True North-DRC, balconies, verandahs, open porches, covered walkways and porticos that are less than 4.5 metres high may encroach not more than 2.5 metres into the minimum front setback. Façade treatments and / or covered balconies or verandahs on the second storey of a building that is less than 6.6 metres in height may encroach not more than 1.5 metres into the minimum front setback.

The following may encroach not more than 0.6 metres into the front setback shown on the plan.

- Eaves, fascia, gutter that are not more than 0.6 metres in total width;
- Privacy screens, but only to the extent needed to protect a neighbouring property from a direct view.

### Diagram: Splayed and Curved Street Frontages

Unless noted on the plan the minimum front setback on a splayed or curved street frontage must be taken in an arc connecting the front street setback line to the side street setback line commencing at the points that are perpendicular to the points where the street alignment commences to arc.



A garage on an allotment, except when marked with a '▲' on the building envelope plan, must be set back not less than 5.0 metres from the front street boundary of the allotment and must be set back not less than 0.5 metres behind the front building line (excluding encroachments) of the dwelling.

### 3.2 Site coverage (Regulation 76 and Clause 54.03-3)

The site area covered by buildings on an allotment must be in accordance with Regulation 76 (Site coverage) in Part 5 of the Regulations and Clause 54.03-3 in the Scheme

### 3.3 Side and rear setbacks (Regulation 79 and Clause 54.04-1)

Side and rear setbacks on an allotment must be in accordance with Regulation 79 (Side and rear setbacks) in Part 5 of the Regulations and Clause 54.04-1 in the Scheme, except as specified below.

Side and rear setbacks for building elements (such as walls and roof coverings) must comply with the requirements specified in the height and setback profiles noted below and shown on the plan by the identifier code. On any allotment, except a corner allotment, the side boundary profile identifier codes

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shown on the plan can be interchanged provided that there is a profile identifier code **SP-A-1** on one side boundary and a profile identifier code **SP-B-1** on the opposite side boundary.

The following may encroach not more than 0.5 metres into the minimum side and rear setbacks.

- Porches and verandahs
- Masonry chimneys
- Screens (to the extent needed to protect a neighbouring property from a direct view)
- Flues and pipes
- Domestic fuel tanks
- Heating and cooling equipment and other services
- Water Tanks

The following may encroach into the minimum setbacks.

- Landings with a maximum area of 2.5 square metres and a maximum height of 1 metre
- Unroofed stairways and ramps
- Pergolas
- Shade sails
- Eaves, fascias and gutters not more than 0.6 metre in total width
- Outbuildings not exceeding 10 square metres in area and 3 metres in height.

A garage with access facing the side street boundary of a corner allotment must be set back at least 0.5 metres behind the side street building line of the dwelling.

### 3.4 Walls on boundaries (Regulation 80 and Clause 54.04-2)

Walls constructed on a boundary must be in accordance with Regulation 80 (Walls on boundaries) in Part 5 of the Regulations and Clause 54.04-2 in the Scheme, except as specified below.

A dwelling wall on a rear boundary must be setback 2 metres except for a garage which may be constructed on the rear boundary.

Walls and carports constructed on or within 200 millimetres of a side boundary of an allotment must not exceed 12 metres in length.

The height of a wall or carport of an allotment must not exceed an average height of 3.2 metres and a maximum height of 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

Carports may be built on or within 200 millimetres of a side street boundary if the side of the carport facing the boundary is open.

Edge allotments are not beneficiaries of the restriction described in 3.4 above

### 3.5 Solar access to existing north-facing habitable room windows (Regulation 82 and Clause 54.04-4)

The provision of solar access to existing north-facing habitable room windows must be in accordance with Regulation 82 (Solar access to existing north-facing habitable room windows) in Part 5 of the Regulations and Clause 54.04-4 in the Scheme, except as specified below.

Reference to an existing north-facing habitable room window, in the case of buildings on allotments contained within this MCP, refers to ground floor windows only.

Any north-facing habitable room window at ground level to be constructed in a building on an allotment must be clear to the sky and setback within the building envelope of the north boundary of that allotment.

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### 3.6 Overshadowing of recreational private open space (Regulation 83 and Clause 54.04-5)

Any overshadowing of recreational private open space must be in accordance with Regulation 83 (Overshadowing of recreational private open space) in Part 5 of the Regulations and Clause 54.04-5 in the Scheme, except as varied as a consequence of other restrictions in this MCP.

Where sunlight to the recreational private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with a minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of 5 hours of sunlight between 9 am and 3 pm on 22 September. The 75 per cent, or 40 square metres minimum area, can be measured in different locations during the day.

Edge allotments are not beneficiaries of the restriction described in 3.6 above.

### 3.7 Overlooking (Regulation 84 and Clause 54.04-6)

Any overlooking of a habitable room window or secluded private open space of an existing dwelling on an adjoining allotment must be in accordance with Regulation 84 (Overlooking) in Part 5 of the Regulations and Clause 54.04-6 in the Scheme, except as varied as a consequence of other restrictions in this MCP.

This requirement applies to any habitable room window, balcony, terrace, deck or patio of a dwelling on an allotment within the specified overlooking control area (as indicated in the relevant height and setback profiles), that has direct views into an adjoining allotment.

Edge allotments are not beneficiaries of this restriction described in 3.7 above.

### 3.8 Private open space (Regulation 86 and Clause 54.05-2)

A dwelling on an allotment must provide private open space as specified in Regulation 86 (Private open space) in Part 5 of the Regulations and Clause 54.05-2 in the Scheme.

### 3.9 Design detail (Clause 54.06-1)

#### 3.9.1 Front façade

A dwelling must include a balcony, verandah or portico with a minimum area of 4 square metres and a minimum depth of 1.5 metres.

A front façade must contain a minimum of two colours or materials.

#### 3.9.2 Ceilings and roofs

A roof of a dwelling must use a combination of hips or gables to articulate the roofline except where a skillion or flat roof is approved by the True North-DRC.

#### 3.9.3 External walls

Where an external wall is constructed on a boundary parapet walls and box gutters are prohibited.

#### 3.9.4 Corner allotments

A dwelling on a corner allotment must be designed to address (at each level) both the front and side street or public open space.

The materials and colours of a façade facing the side street of a dwelling on a corner allotment must complement the front façade materials and colours.

The façade of a dwelling facing a side street or public open space must contain windows at each level. Blank walls facing a side street are prohibited.

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Where a wall of a second storey dwelling wall faces a side street or public open space; one of the following must be provided:

- an additional setback of the building of at least 300 millimetres for a length of at least 1 metre; or
- an additional setback of the second story of at least 900 millimetres; or
- contrasting material of the second storey for a length of at least 2 metres; or
- contrasting wall colours of the second storey for a length of at least 2 metres; or
- an alternative form as approved by the City of Hume.

### 3.9.5 Garages

Garages must be incorporated into the main roofline of the dwelling to reduce the visual impact the garage has on the façade, except on an allotment marked with a '▲' on the building envelope plan.

Garage roller doors are prohibited.

### 3.10 Fencing (Regulations 89 to 96 and Clause 54.06-2)

All fences must be in accordance with Regulations 89 to 96 in Part 5 of the Regulations and Clause 54.06-2 in the Scheme, except as specified below.

Side and rear fencing must be constructed of colorbond and be a maximum 1.8m high.

Side boundary fencing abutting a street or public open space must be constructed of 'Decorative Fencing' as per the True North Design Guidelines, or otherwise approved by the developer provided that:

- it does not exceed 1.8 metres in height;
- it does not exceed 60 per cent of the length of the side street boundary commencing at the rear allotment boundary,
- it accords with the requirements of Regulation 92 and 93 in Part 5 of the Regulations.

### 3.11 Driveways

A driveway must be constructed from one of the following materials or similar:

- stamped or patterned concrete;
- coloured concrete;
- exposed aggregate;
- paving;

Plain concrete driveways (in light-grey 'standard' concrete) are prohibited.

### 3.12 External plumbing

Plumbing visible from the street must be painted to match or complement the colour of the dwelling.

### 3.13 Approval of dwelling design

The design of a dwelling to be built on an allotment must be endorsed by the True North-DRC as complying with this MCP and being consistent with the Design Guidelines before applying for a building permit.



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### 4 Notes on the MCP

- 4.1 Ground level after engineering works associated with subdivision is to be regarded as natural ground level.
- 4.2 In the case of conflict between the plan and these written notations, the specifications in the written notations prevail.
- 4.3 Buildings must not cover registered easements unless provided for by the easement.
- 4.4 Edge allotments are those allotments that are part of the same certified plan of subdivision but share one or more common boundaries with or otherwise adjoin an allotment that is not part of the same certified plan of subdivision. Regulation 71 in Part 5 of the Regulations and Clause 56.04-2 in the Scheme, apply to each edge allotment irrespective of Sections 1 to 3 of this MCP.
- 4.5 Each allotment is provided with a single or shared crossover. Relocation of crossovers is only permitted with prior approval from the True North-DRC and the City of Hume. Relocated crossovers must be constructed at the owner's expense in accordance with the City of Hume specifications and be of the same finish as that originally provided. The existing crossover must be removed and the verge, kerb and footpath constructed to the same standard as the adjoining verge, kerb and footpath at the expense of the allotment owner.

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### 5 Diagrams and plans

#### 5.1 Explanation of symbols and terms in diagrams and plans

## NOTATIONS

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SP-A-1	RP-A-1	Building envelope profile (refer 6.2 and 6.3 following) to be applied to the particular boundary (refer plans in 6.5).
SP-B-1	RP-A-2	
SP-D-1		Note the frontage setback and easement width is designated on the plan
	4	Frontage Setback
— — √ — —		Varied easement (refer to the plan of subdivision)
— — 2 — —		2 metre wide easement
— — 3 — —		3 metre wide easement
	▲	Special lot requirements (refer text)
	2401	Lot number
		Designated vehicle crossover to lot (no other vehicular access point is permitted to a lot, except with the approval of Satterley and the Hume City Council)
	●	Lots not subject to a single dwelling covenant
	⊘	Dwellings on these lots must be two storey
	□	Dwellings on these lots to have a double garage
	◆	Dwellings on these lots to have a single or double garage

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## PARTICULAR LOT REQUIREMENTS FOR STAGE 24

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Nil

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Detailed design of roads, crossovers and footpaths is provided in the relevant Engineering Plans.

Additional easements may be required subject to detailed engineering assessment.

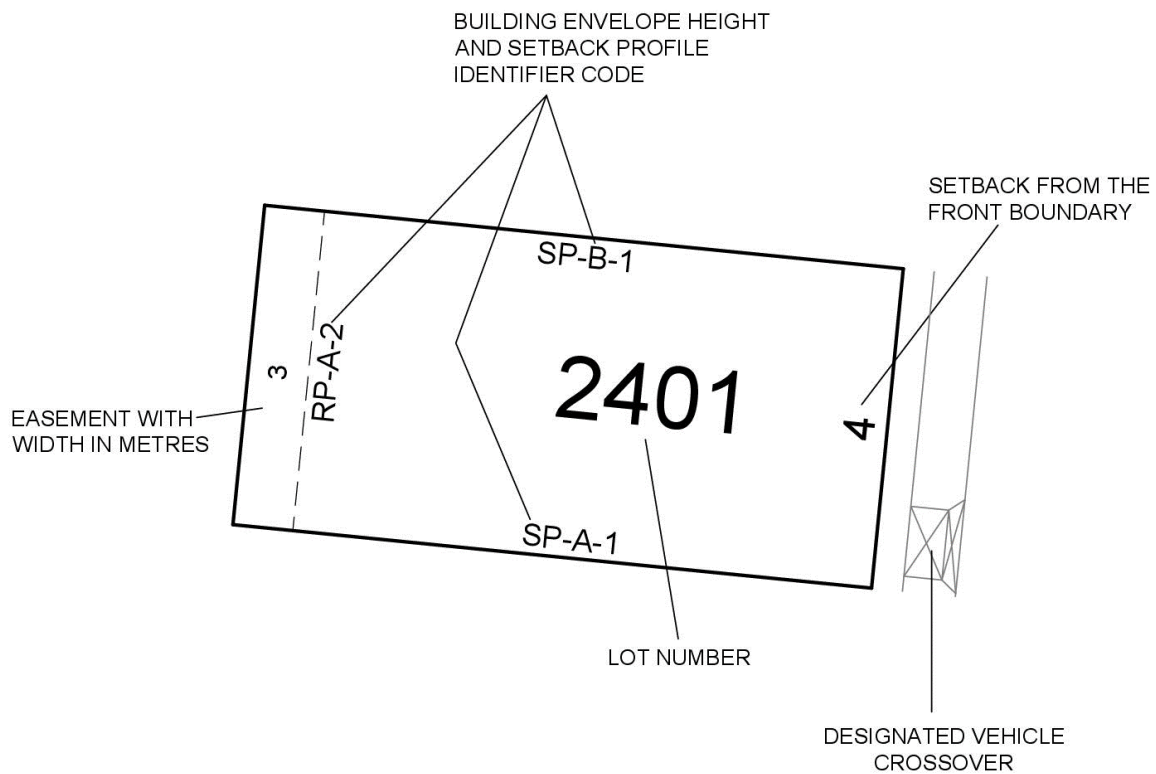
Detailed design of landscape works is provided in the relevant Landscape Plans.

All details subject to approval by Hume City Council.

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### 5.2 Diagrams illustrating the interpretation of the building envelope and the annotation with respect to all edge allotments in this stage development

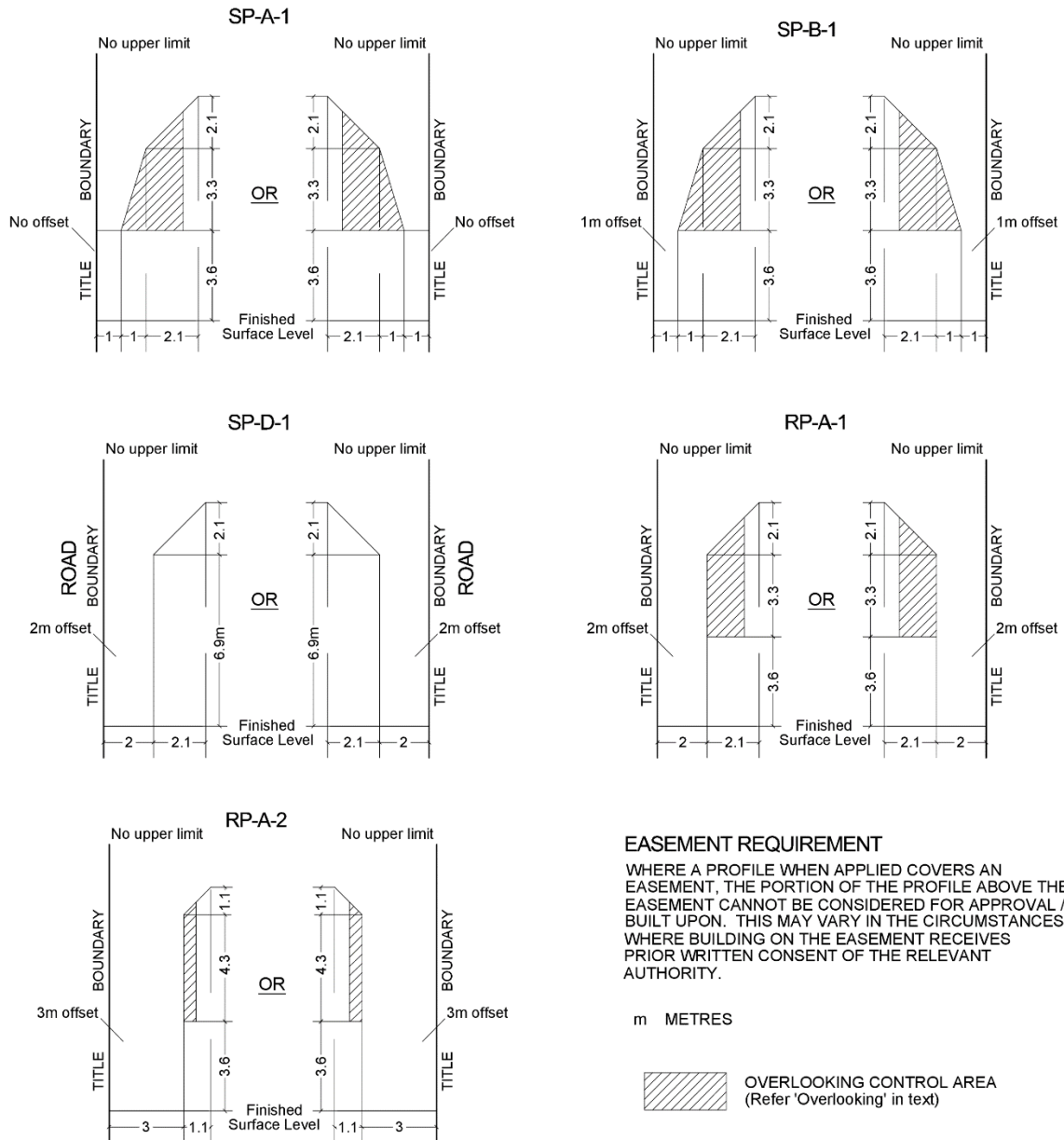


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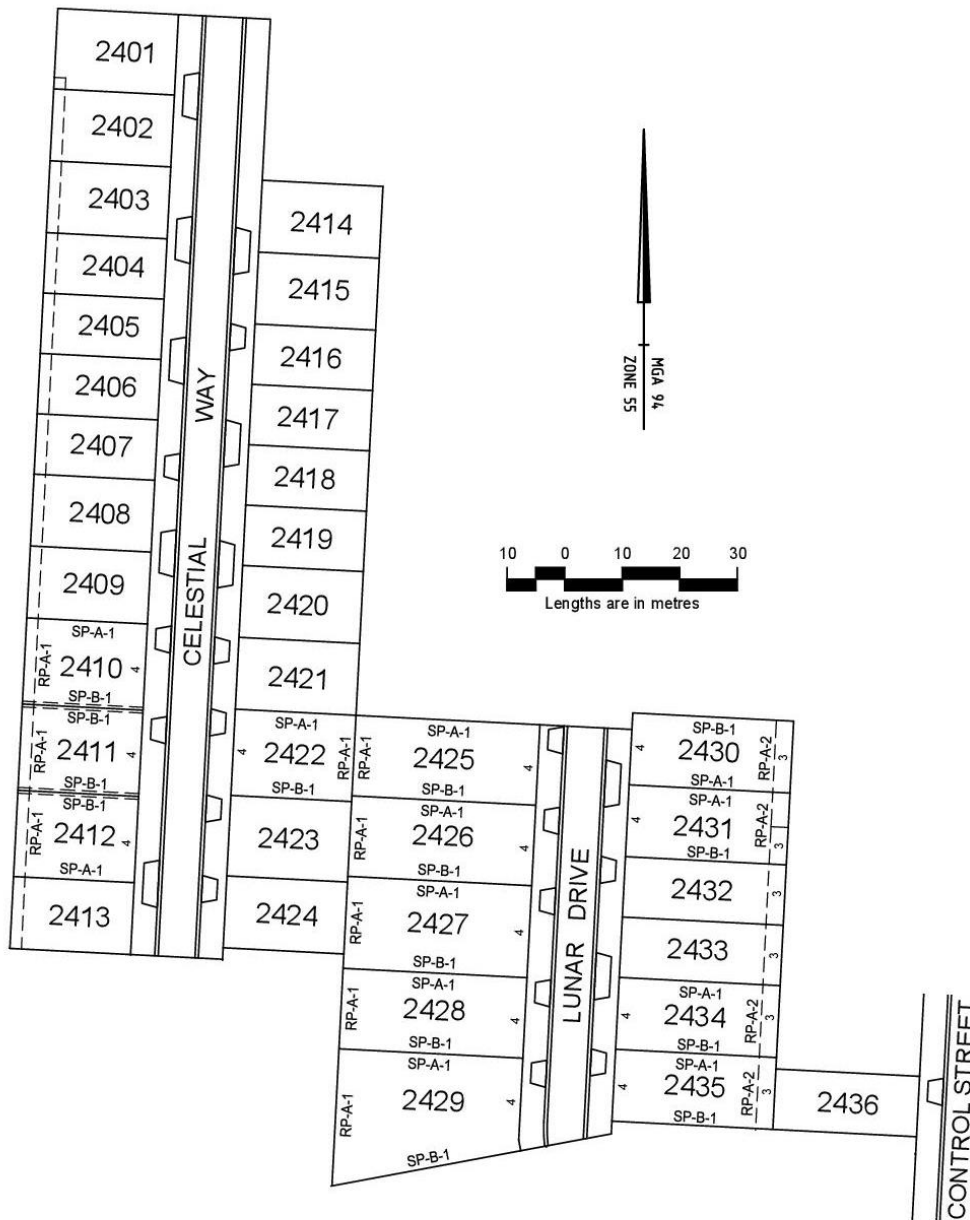
### 5.3 Profiles referenced in the building envelope plan

#### SCHEDULE - BUILDING ENVELOPE LEGEND



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**5.4 Plan of Subdivision showing building envelope height and setback profile identifier code**



**Expiry:**

10 years after the issue of an Occupancy Permit under the Building Act 1993 is issued for the whole dwelling on the burdened lot.